

*LAND TENURE SUMMIT*

*Getting South Africans Talking about Land Tenure Security*

*4-6/09/2014*

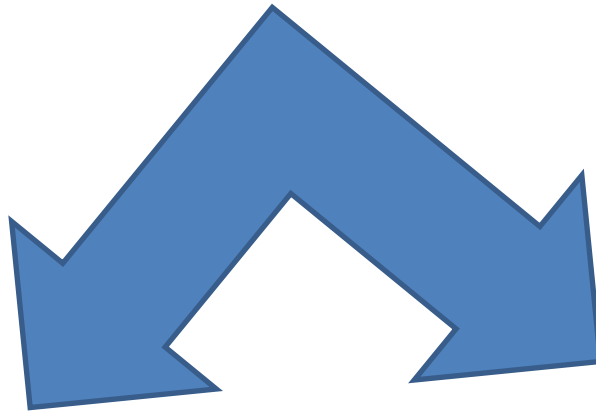
# **Regulating land use and ownership - Land holdings**

## **A quick overview of experiences and approaches**

Dr Ward Anseeuw



# 2 Approaches



Normative  
approach

Procedural  
approach

# **Normative approach**

Setting and imposing of thresholds  
(ceilings) or moratoriums  
(ex-ante criteria)

# Normative approach

- Land ceilings: India, Brazil, Mexico, Philippines, Nepal, Egypt, ...
  - Avoiding concentration / fragmentation
- Moratoria: Many Eastern European countries, Niger, ...
  - Blocking certain transactions (foreign ownership)

# Normative approach

- Centralised / decentralised (India – State)
- Processes
  - Expropriation (Mexico) / during transactions (Eastern Europe)
  - Compensation (market value/ non market value) (Taiwan) / no compensation
- Enforcement
  - Authorities (State / court)
  - Capacities

# **Procedural Approach**

Supporting a process that is more  
inclusive

(no ex-ante criteria)

# SAFER – Organization of spatial planning and rural establishment (France)

- 29 non-profit organisations
  - Advisory board – Equivalent of the Agricultural Bank, farmers union, farmers, municipality, broader sector, as well as Ministry of Agriculture and Ministry of Finance (veto right)
- Right to acquire, sell and exchange land (buildings)
  - Obligation to resell within 5 years (without profit/loss)
- Principles:
  - **Motivation**
  - **Publicity**
  - **Right to transform**
  - **Priority – First right** = The right of the SAFER to substitute itself to the buyer
- How? Each sale has to be informed/communicated to the local SAFER by the deeds attorney
  - Notification is an act of sale to the SAFER
  - Criteria not predefined / guidelines
- Privileged Observatory/tool for monitoring

# Land Observatory (Madagascar)

- Centralised office, hosted by Department of Lands, independent functioning and funds stream
- Primary objective: Produce knowledge and data in the framework of Magasy LR and land dynamics
- Multistakeholder platform
  - Central government, local government, civil society, farmers organisations, academics, international observers/technical assistants, journalists
- No executive power – debating continuously land issues
  - Lately, sale/lease of large-scale land properties to foreign investors
  - Certain issues have been made compulsory to tabled



**Quick comparison  
&  
Lessons for South Africa**

# Pros-Cons

Normative	Procedural
<p>Pro:</p> <ul style="list-style-type: none"><li>- Equity principle</li><li>- Principles easily to conceptualize</li></ul>	<p>Pro:</p> <ul style="list-style-type: none"><li>- Consensual/inclusive</li><li>- Legitimize action</li><li>- Locally anchored</li></ul>
<p>Con:</p> <ul style="list-style-type: none"><li>- Very little successes/effectiveness</li><li>- Reduced tenure security</li><li>- Questionable one-size fits all criteria</li><li>- Uneconomical fragmentation – drop in productivity and competitiveness (India)</li><li>- Laxity of enforcement / Corruption</li><li>- Can be expensive</li></ul>	<p>Con:</p> <ul style="list-style-type: none"><li>- Long process</li><li>- Unresolved situations</li><li>- Biased power balances at different levels</li><li>- Capacity at different levels</li><li>- No thresholds – inconsistencies</li><li>- “soft power” Often remains informative and difficult to implement</li></ul>



Procedural approaches prioritized

- Voluntary guidelines on the responsible governance of tenure (VGs - FAO)
- Framework and guidelines on land policy in Africa (F&G – AU)
- Benchmarks for land governance in Africa (ILC)

# Lessons for South Africa

- Effectiveness?
  - Need of a combination of measures (siblings, corporate ownership, ...)
  - Consistency with certain present dynamics/reforms? Need of a holistic reflection/approach to rural development
- Combination of approaches
  - Thresholds can set guidelines
  - ....but not normative, engaging a more inclusive approach
- Complimented / alternatives
  - Taxation – land tax (unused, increasing according to size, multiple ownership, ...)
  - Well-defined, security of tenure
  - Well coordinated agricultural and rural support programmes
- Data and transparency

# Thank you!

Dr Ward ANSEEUW  
CIRAD Researcher  
Post Graduate School of Agriculture and Rural Development  
University of Pretoria  
Pretoria 0002  
South Africa

Email: [ward.anseeuw@up.ac.za](mailto:ward.anseeuw@up.ac.za)